

MAGOON'S TRIAL ON

Frank Hustace Relates Story of Kamalo Trouble.

J. Alfred Magoon, attorney-at-law, went on trial before the Supreme Court yesterday for both his professional honor and his membership of the Hawaiian bar. Chief Justice W. F. Frear and Circuit Judges Alex. Lindsay Jr. and Chas. F. Parsons constitute the court, the last two as substitutes for Justices Hartwell and Wilder, disqualified.

Sidney M. Ballou, petitioner for the disbarment of the respondent, prosecuted. Mr. Magoon conducted his own defense, assisted by former Justice W. A. Whiting and J. Lightfoot, the respondent's associate in practice.

Frank Hustace was the chief witness of the day, so far as direct bearing on the principal charges was concerned. Magoon fought not always in vain against answers on the ground that they were conclusions of the witness, and in cross-examination strove to bring out accounts of interviews about the Kamalo trouble which would jibe with the theory of the pleadings of the defense.

Within a few days after Hustace had paid his full pro rata share of the judgment against himself, J. J. Egan and Frank H. Foster—his story ran—he was called to a consultation in the office of Robertson & Wilder, who were attorneys for Hustace, Egan and Foster in the suit of H. R. Hitchcock and other shareholders of Kamalo Sugar Co. against them. The judgment, affirmed by the Supreme Court, was about \$35,000. Magoon, who was of counsel for plaintiffs, and L. H. Dee, one of them, were at the consultation.

Dee made remarks about the unfairness of making Hustace liable for the entire judgment, it having been intimated that the other defendants had conveyed their property out of reach of execution, and proposed that Hustace should transfer his remaining property liable to execution, after which proceedings should be brought against Egan and Foster to set aside their conveyances as fraudulent, this to be followed up by levying on the property in question of those defendants. This was the first Hustace knew, as he now testified, that he was liable for the whole judgment if Egan and Foster could not be compelled to pay their shares.

Robertson disapproved of the proposal as improper, but Magoon considered it all right. Later Magoon and Dee called Hustace to an interview at Magoon's office and proposed a different arrangement. This was that Hustace should pay the balance of judgment, or buy the judgment as testified, and then bring suit thereon in his own name against Egan and Foster. To this Hustace assented conditionally on his power to raise the money. His property was mostly hypothecated, it being a time of depression, but he would see what he could do.

A while later Hustace informed Magoon and Dee that he could not effect the proposed arrangement. They renewed the proposition of going after Egan and Foster, and he asked what it would cost. He was informed that he would only have to pay \$150 to have a suit brought, and if it were appealed to the Supreme Court it would cost him \$100 more.

Just here a legal contest arose on Magoon's objection to the witness's statement that "it was understood the \$150 was a retainer." The end was he was held down by the court to confine himself to the substance of the conversation if he could not remember the exact words.

Hustace went on to say he asked if the \$150 was required right away. No, he was informed, within a few days would do. That was a Saturday afternoon. On the following Monday morning the witness delivered a check for \$150 to someone in Magoon's office, he could not say whether it was E. C. Foster, then Magoon's partner, or Miss Law, the respondent's bookkeeper. At all events he identified the check, produced now from the exhibits in the Dee-Smith case out of which these disbarment proceedings immediately sprang.

Hustace shortly afterward made conveyances of property to his brother and others, including a deed of Nuanu property to W. H. Smith. Then he went to San Francisco. A week after his arrival over, the steamer Sierra brought him particulars of a sale under execution of the property he had conveyed which was advertised here for December. He returned in the Sierra to Honolulu. After a postponement the sale took place in January. Dee was purchaser of the Nuanu property at the execution sale and later brought quieting title suit to oust Smith.

The result of this suit in favor of Smith is well-known. Its final adjudication by the Supreme Court brought out the fact of Hustace's payment of \$150 as a retainer to an attorney for his antagonists in the Kamalo litigation.

Hustace told of having been sent for

by Magoon after his return, Dee being the messenger. "I told him I would have nothing more to do with him and you," the witness replied to a question by the respondent, "as you had done me so dirty already."

A. G. M. Robertson had previously testified. His account of interviews and conferences agreed with the story later told by Hustace. One day he saw a deed from Frank Hustace to Charles Hustace Jr., which his partner, now Justice A. A. Wilder, had drawn, but it did not occur to him to connect the document with the previous conversation in their office about the proposition that Hustace should transfer his property. Robertson also told of receiving \$150 from Magoon to give to Hustace, just after the Supreme Court had decided the Dee-Smith case with incidental reflections on the respondent.

A. M. Brown, as High Sheriff at the time, gave evidence regarding the execution. Mr. Ballou filed as evidence the Dee-Smith record, etc.

BOWEN-LOOMIS INQUIRY

(Continued from page 1.)

retary of State. Should he fail to do so he will be "bounced," in the language of the street again, from the diplomatic service. Of course, a similar fate would await Mr. Loomis should Mr. Bowen "make good," but the Assistant Secretary professes absolute confidence in his ability to satisfy the President of the propriety of all his acts while serving the United States as Minister to Venezuela.

Mr. Bowen's prospective return to Washington is in pursuance of Mr. Loomis's request; that is to say, he requested Secretary Taft to summon him to the capital in order that the issue could be decided at short range. Mr. Taft was quick to recognize the wisdom of such a course, and the Minister and Assistant Secretary are likely to confront each other within 10 days or a fortnight. What happens then doubtless will more than compensate such officials and diplomats as are impatient at the absence of daily sensational developments. The charges against Mr. Loomis were cited in the course of a letter to Secretary Taft from Minister Bowen. It is believed in some quarters that Mr. Bowen did not intend to prefer any formal accusations against the Assistant Secretary, but Mr. Taft seems to have taken the view that the matter could not be ignored.

WASHINGTON, April 28.—It was disclosed today that Mr. Bowen has not felt kindly toward Mr. Loomis ever since he was appointed his successor at Caracas in the summer of 1901. A State Department official who always has his eyes open, said this afternoon: "Mr. Bowen was in Paris when his appointment was announced. He immediately gave out an interview to the effect that the relations between the United States and Venezuela would now be of a cordial character, and that there never would have been any trouble had the American Minister been a man of judgment, tact and discretion. That, of course, was a reflection on Mr. Loomis, although up to that time the two men had never met. Since then, in his capacity as Assistant or Acting Secretary of State, Mr. Loomis has had occasion to transmit various instructions of the department to Mr. Bowen, which the latter did not like, and the result has been that his dislike for Mr. Loomis did not diminish. Why he showed ill feeling against the Assistant Secretary in the beginning I am at a loss to understand. It seems to me that his so-called charges against Mr. Loomis were inspired by his personal hostility against the man. However, we will know all about it when Mr. Bowen gets to Washington."

Mr. Loomis said this afternoon that he had nothing to add to the statement he gave out last night. He would have more to say when Mr. Bowen arrived, but not now.

It is quite certain that Mr. Bowen will not return to Caracas as American Minister, except perhaps to present his letters of recall, for it is understood that even if his explanation is satisfactory and he is to remain in the diplomatic service, his usefulness in Caracas will have been impaired and it will be necessary to carry out the State Department's original plan, formed before the publication of the attack upon Mr. Loomis, and transfer Mr. Bowen to either Columbia or Chili, or perhaps to Brazil in the event that Ambassador Thompson is sent to Mexico as he desires.

A BROKEN DOWN SYSTEM.

This is a condition (or disease) to which doctors give many names, but which few of them really understand. It is simply weakness—a break-down, as it were, of the vital forces that sustain the system. No matter what may be its causes (for they are almost numberless), its symptoms are much the same; the more prominent being sleeplessness, sense of prostration or weariness, depression of spirits and want of energy for all the ordinary affairs of life. Now, what alone is absolutely essential in all such cases is INCREASED VITALITY—VIGOR—VITAL STRENGTH AND ENERGY to throw off these morbid feelings, and experience proves that as night succeeds the day this may be more certainly secured by a course of the celebrated life-reviving tonic.

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than by any other known combination. So surely as it is taken in accordance with the printed directions accompanying it, will the shattered health be restored, the EXPIRING LAMP OF LIFE LIGHTED UP AFRASH, and a new existence imparted in place of what has so lately seemed worn-out, "used up" and valueless. This wonderful medicine is purely vegetable and innocuous, is agreeable to the taste—suitable for all constitutions and conditions, in either sex; and it is difficult to imagine a case of disease or derangement, whose main feature is those of debility, that will not be speedily and permanently benefited by this never-failing recuperative essence, which is destined to cast into oblivion everything that had preceded it for this widespread and numerous class of human ailments.

THERAPION

chambers should see that the word "Therapion" appears on British Government Stamp (it is sold by the principal Chemists throughout the world. Price in England, 2/6 and 4/6. For white letters on a red ground) affixed to every package by order of His Majesty's Hon. Commissioners, and without which it is a forgery.

Acts 73, to 94 as passed by the Legislature are published in the last issue of the Commercial and Official Record. Copies for sale at the Gazette Office.

BOTH HOUSES TAKING ONE DAY OF REST

The Senate Has Nothing to do, and the House Wants to Give Committees a Chance at Appropriation Bills.

The Senate had but a short session yesterday, all its work being practically finished and there being nothing further to do until the appropriation bills come back from the House. And then they will probably go to conference, the House showing a disposition so far to amend every bill that comes down from the Senate. At the conclusion of the session, there being no chance of anything being ready for today and President Isenberg so stating to the members, an adjournment was taken until Wednesday.

The House likewise has adjourned over until Wednesday, the appropriation bills being referred to get them within the income, and the House desiring to give the committees a day to work on the measures. The work yesterday amounted to little more than the reference of the bills.

THE SENATE.

The Senate had a very short session yesterday, and adjourned until Wednesday morning at ten because there is nothing to do until the House sends back some of the appropriation bills.

A petition from voters of North Hilo asked that Dr. Irwin be retained as government physician for North and South Hilo. The petition was filed.

A petition from Hakalau settlers asked for an appropriation to build a road to their lands. The petition was placed on file.

Brown presented two resolutions from Hilo Republican clubs asking that the pay of teachers in the public schools be raised and for a liberal appropriation to erect a high school building in Hilo. The second of these petitions also requested that local teachers be given preference in employment and that a local school inspector be appointed and school agents done away with. Senate Bill 8, appropriating \$2000 to pay witness fees that have gone delinquent, passed third reading, no vote being cast against it.

House Joint Resolution 2, authorizing the Superintendent of Public Works to advertise for bids for building certain roads on Maui under the former loan bill, was referred to the judiciary committee on a question of law on second reading.

The Senate then adjourned, this completing the calendar.

THE HOUSE.

The House of Representatives will take a rest today while a special committee, one from each district and one at large, struggles with the Loan Appropriation bill and the Salaries bill. Yesterday morning the Senate returned House Bill No. 4, the Special Appropriation bill, with amendments which the House refused to accept. On Holstein's motion a committee of five was selected for conference Speaker Knudsen naming Harris, Rice, Copp, Kalepou and Shipman.

Senate Bill No. 8, making appropriations for departmental use was received and passed first reading by title.

The Senate having refused to concur in the House amendments to Senate Bill No. 6, respecting unpaid bills, Speaker Knudsen appointed Waterhouse, Fernandez and Pali to the Conference Committee.

SOME PETITIONS.

Petitions were received from the Republican club of the third precinct, first district, and from the fourth precinct of the same district, asking that school teachers' salaries be restored to their former level.

The petitions were tabled to be considered with Senate Bill No. 2, the Salary bill.

The members of the Manuoa Settlement Association and of the McKenzie Settlement Association occupying the Kamalo Homesteads, North Hilo, petitioned for a road through the homesteads. The petition was referred to the Committee of the Whole on Senate Bill No. 3.

The House went into committee on the special appropriation bill, Nakuna in the chair, and at once took a recess. The clerk of the House meanwhile figured it out that the amendments introduced had swelled the amount for general appropriations from \$681,000 to \$785,500. The House took its luncheon recess at 11:30.

GOES TO COMMITTEE.

The House met again in the afternoon and resolved itself once more into committee of the whole on Senate Bill No. 3. A recess was again taken while the different island deputations talked over the matter of respective appropriations.

On Rice's motion the item of \$5000 for Kaulakakai wharf was reconsidered and stricken out.

Rice moved that the committee rise and ask that the bill be referred to a special committee, one from each district and one at large, to be appointed by the speaker. He announced that there remained \$120,000 from the old appropriations which should be divided

between the islands.

The committee rose and reported and the Speaker appointed Rice, Harris, Waterhouse, Hala, Holstein, Smith and Long as the special committee on the bill.

COMMITTEE AGAIN.

The House went into committee once more, Andrade in the chair, on Senate Bill No. 2, the Salaries Bill. Aylett moved that the bill be referred to the same special committee which had been given charge of the appropriation bill. Sheldon supported the motion as he believed such a reference would expedite the business of the House. The motion carried.

The committee reported as instructed and the bill was accordingly referred to the special committee for consideration.

The House adjourned at 3:50 p. m. until 10 o'clock Wednesday morning.

ELECTION LAW DEFECTIVE

Gov. Carter Impressed With the Necessity for a Change.

Apropos of his appointment of election inspectors, the list of which must have got lost somewhere in the Senate, because no action has been taken upon it, Governor Carter has written a private letter to a gentleman who has taken some interest in affairs political in times past, the letter showing conclusively that the Governor feels the pressing need for an intelligent revision of the election laws.

"The list of inspectors printed in the Advertiser," says the Governor in his letter, "is correct. Previously, in handling this question, we have ignored the law, on the ground that it was old and out of date, and evidently drafted for individual contests, without any contemplation of organized parties. It is so faulty that we simply did the best we could. You know the result; the attack upon the election by the Democrats, evidence of which has been collected and which clearly shows the truth—that the Administration did not follow the law."

"Now, the solution in this case, as in many others, is to reverse this policy and simply carry out the law, and thus impress the necessity for a change."

"The law requires the election inspectors to represent, as far as possible, the different contestants. There are three political parties in the field, and in order to be forehanded, this office some time ago wrote to the central office of each organization a letter, asking them to furnish one name of an election inspector in each precinct. This was done by both the Home Rulers and the Democrats, but the Republicans followed the old course and sent in the three names that they thought ought to be appointed, probably intending to make the selection for the other two parties, stating that if one name only was to be considered, preference was to be given to the first name."

The Governor then revives the condition in the precinct where dwells the gentleman to whom the letter is written, and concludes:

"In view of the foregoing, you might have your organization introduce a resolution asking for a revision of the election laws, and requesting Kuhio to secure a change in the Organic Act, abolishing the appointment of inspectors of election for four years, but providing that there shall be three inspec-

tors appointed for each precinct, representing the various political parties, proportioned among the contesting parties as far as possible in conformity with the votes cast at the previous election. This is only a hasty suggestion."

POSSIBILITIES OF BANANA BUSINESS

H. V. Stuart-Carey writes as follows in a newspaper of Fiji:

Fiji has not yet realized the enormous commercial possibilities of the banana. Of the popularity of the fruit and its prolific character, it is unnecessary to speak. The proved nutritious properties of the fruit destined it to become a fruit for the million in all parts of the world. The export of the fruit in its natural state is only the commencement of an industry that contains infinite possibilities of commercial expansion, with economical treatment, and entire absence of waste. The occasional glut of the green fruit, over-production and irregular transport, all tend to enormous wastage and low prices. By the introduction of such an industry as I propose to briefly outline, it would be possible to secure markets throughout the world, and also to eliminate the wastage of one single bunch of fruit. There are no less than twenty-three by-products that can be economically manufactured from the banana, and not one of these has yet been scientifically or commercially exploited, in any save the smallest degree. Fiji possesses unique advantages for the establishment of a banana preserving industry, in conjunction with fruit canning, as the two essentials (fruit and sugar) are both abundant and cheap. Moreover, the Fiji banana is more especially adapted for successful preservation than the same fruit grown in Queensland or the West Indies. From experiments I have conducted, I am convinced that at least two varieties of the island banana are eminently adapted for the manufacture of no less than ten by-products, including the plain dried banana, crystallized bananas, deacidified bananas, banana meal (moist), banana flour, banana sugar, bananas preserved in syrup, banana essence, banana jam, and banana fibre.

A long and thorough practical experience in fruit drying, evaporation, crystallization and deacidification has given me a knowledge of the subject that may be of service to the Colony, and I am very willing to give a demonstration of the practical nature of the scheme to any gentlemen who have sufficient interest in its possibilities. Again, the deacidification of cocoanut, the drying of coffee, vanilla, cocoa and ginger, can all be economically done in the islands by a process with which I am thoroughly familiar. And the canning of pineapples of the West Indian variety forms in itself alone a most profitable industry. There is an unlimited market for banana products, and the cost of production is so extremely low, that it affords a very handsome margin of profit for the manufacturer. In the initial stage of the industry, I would suggest the establishment of a small factory in Suva with the power of ready expansion, and eventually it should be possible for every planter in Fiji to possess his own drying and preserving plant. Tuition in the different processes might, I suggest, be given under the guidance of the Agricultural Department, and subsidized by the Government. I feel convinced that the inevitable expansion of the trade would justify the appointment of commercial agents in New Zealand, Australia and Canada, who, if properly qualified men, could be of enormous service in promoting the export trade of Fiji. In anticipation of the conventional objections that may be raised against the establishment of such a scheme—First: it has been affirmed that bananas cannot be successfully dried in Fiji. To this objection, I can only say that I have in my possession an excellent sample of bananas dried in Suva, by the most primitive and unscientific process, nearly three months ago, and at the present moment they are in perfect condition, and are likely to remain so for a considerable period. By a process I have discovered in California, it is possible to dry bananas, and to keep them in any climate for not less than two years. This also applies to the different by-products. As far as I can discover the process is entirely unknown in Fiji. Cost of production:—A bunch of bananas representing eight pounds, containing on an average 140 pieces of fruit, will produce 30 lbs. of jam, with a total cost of fruit and sugar at 3s. 6d. Pineapples can be landed in Suva at the factory door for 6d. per dozen for the very best fruit. The cost of canning represents 2s. 6d. per dozen cans, packed ready for export.

Space is too limited to give further details under this heading, but I might conclude by dealing with the all-important question of markets. Some four years ago, I experimented with a sample of bananas grown in the Canary Islands, and from these manufactured a small quantity of refined banana meal. This was analysed by Sir Andrew Wilson, F. R. C. S., who pronounced the preparation "the most perfect infants' food it was possible to discover, for which there would be an unlimited and ever-growing demand." Unfortunately the authorities placed every possible obstacle in the way, and it was impossible to initiate the industry. Banana flour is at present in great demand in England. Crystallized bananas represent an entirely new sweet-meat; banana essence a new flavoring; banana meal an excellent preparation for cakes, puddings, and ices, and so on ad infinitum. The Cook Islands are already exporting large quantities of dried bananas, put up and manufactured in a very crude condition, but which find a ready sale. The final objection, I am prepared to

ON TRIAL FOR MURDER

First Day's Evidence in Trial of Philip H. Naone.

Several witnesses for the prosecution were examined before Judge De Bolt yesterday in the trial of Philip H. Naone, indicted for murdering his wife on October 8 last. S. M. Kana-hanui, surveyor, produced a map of the Naone premises at Kawahana. Naone's father identified places on the map, besides giving some evidence regarding the defendant's personal history. The young man was in his 35th year and was married in 1899.

Joseph Lawelawe, the first outsider to reach the scene of the tragedy, described what he found there. Captain Robert Parker and Clerk McKinnon identified the revolver with which the shooting was done, and Captain Nalpo told of his having removed the body to the morgue.

E. K. Rathburn gave evidence of two letters Naone had brought to his house for him to mail. This was on the evening previous to the night of the murder, and the letters proved to contain intimations of Naone's intention to kill his wife. The letters were published shortly after the defendant's arrest.

Dr. C. B. Wood testified to finding two wounds upon the person of Mrs. Naone, one of which was sufficient to have caused death. The other was in the upper part of the victim's arm. A bullet that dropped out of the dead woman's clothing was produced by the doctor. Attorney Cutchart, at the request of the witness, took off his coat to permit a demonstration of where the lesser wound was inflicted.

NEW SUITS.

Kaneohe Ranch Co. has brought suit against L. Ahlo, defendant, and Royal Insurance Co. and W. G. Irwin & Co., garnishees, for \$2000 claimed as rent and \$856 for taxes, a total of \$3856, and costs.

The Bank of Hawaii, Ltd., sues Samuel K. Pua, Manuel J. Carlos and Maria D. Carlos for foreclosure of mortgage, the debt being \$5000 and 8 per cent interest from April 30, 1900, and the property all those pieces of land situate at Kahawala, Kapalama, Honolulu, and known as Mahele II and III and also the house lot adjoining makai of Mahele III and known as the house lot of the estate of D. W. Pua, the mortgagor's father.

Francis M. Hatch is suing Samuel Norris for \$1500 on account of attorney's professional services in the cases brought against defendant some years ago by Hawaiian Agricultural Co. and Jos. O. Carter respectively.

DIVORCE CASES.

Ruta Kapehe Paaluhl answers the libel in divorce of her husband, John Paaluhl, denying the alleged desertion by her and bringing a criminal charge against the libellant. She asks that he pay \$100 to her counsel, also temporary alimony and costs of proceedings.

John Emmet Reddy demurs to the divorce libel of Irene Reddy on the ground that it does not show that the parties had resided in the Territory for two years next preceding the commencement of the action. A motion to set aside the order of alimony is also filed.

John W. Hall has appealed from Judge Lindsay's order that he pay temporary alimony, attorney's fee and costs in his wife's divorce suit.

COURT NOTES.

A. M. Brown, ex-High Sheriff, has filed satisfaction of judgment in his favor as defendant to the suit of Hawaiian Trust Co., Ltd. This is the case of seizure of liquors by the former High Sheriff under an execution against the Moana Hotel Co., Ltd., which the plaintiff as trustee of mortgages contested by action of replevin.

Judge De Bolt granted plaintiff's motion to strike from the calendar the case of Chin Loo et al. vs. Wo Sing Wai, defendant, and Pong Sung Wai, garnishee, an appeal by defendant from the District Court of Ewa.

A bill of exceptions has been filed by defendant to Judge Lindsay's decision for plaintiff in the suit of The Portuguese Mutual Benefit Society of Hawaii vs. Mary Ann Kahanamakali.

The Supreme Court reduced the fee of Commissioner Simonton in the Hawaiian Hotel Co. sale matter to \$1000 from \$1250 as named in Judge Robinson's order.

A SAFE MEDICINE.

Mothers of small children need not hesitate to administer Chamberlain's Cough Remedy. It contains no opiate or narcotic in any form and may be given to a baby with as much confidence and cures quickly. For sale by all Dealers and Druggists. Benson, Smith & Co., Ltd., agents for Hawaii.

hear, is that my scheme is original and untried, which I think is the most convincing argument for at once demonstrating its feasibility. If this is done it will be of inestimable benefit, not only to the planters, but indirectly to all classes of the community; in fact, the establishment of such an industry may mean a commercial regeneration of Fiji. I should mention that it is impossible, within the limits of this brief article to do more than outline the scheme, but I have prepared an exhaustive memorandum dealing with every aspect of the question, and I shall be very pleased to enter fully into the matter, or give any necessary and further information to those interested.